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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,380	12/06/2005	Albin A. W. Baecker	ADMS 3668	8375
321 7590 03/29/2007 SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			EXAMINER O HERN, BRENT T	
			ART UNIT 1772	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		03/29/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Office Action Summary	Application No. 10/537,380	Applicant(s) BAECKER ET AL.	
	Examiner Brent T. O'Hern	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,9-11,13-17 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7,9-11,13-17 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims

1. Claims 7, 9-11, 13-17 and 21 are pending with claim #21 new.

WITHDRAWN REJECTIONS

2. The double patenting rejections of claims 1-4, 7-9, 11, 13 and 19 of record in the Office Action mailed 21 August 2006, page 2, paragraph 2 have been withdrawn due to Applicant's amendments in the Paper filed 20 February 2007.
3. The 35 U.S.C. 112, second paragraph, rejections of claims 1-17 and 19 of record in the Office Action mailed 21 August 2006, page 3, paragraph 3 have been withdrawn due to Applicant's amendments in the Paper filed 20 February 2007.
4. The 35 U.S.C. 103(a) rejections of claims 1-14, 16-17 and 19 as being unpatentable over Baecker et al. (US 5,725,921) in view of Steele et al. (US 5,302,428) of record in the Office Action mailed 21 August 2006, page 4, paragraph 5 have been withdrawn due to Applicant's amendments in the Paper filed 20 February 2007.
5. The 35 U.S.C. 103(a) rejection of claim 15 as being unpatentable over Baecker et al. (US 5,725,921) in view of Steele et al. (US 5,302,428) and Holt et al. (US 5,070,597) of record in the Office Action mailed 21 August 2006, page 10, paragraph 5 have been withdrawn due to Applicant's amendments in the Paper filed 20 February 2007.

NEW REJECTIONS

Claim Rejections - 35 USC § 112

6. Claims 21, 7, 9-11, and 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 recites the limitation **“the inner surface”** in line 6, **“the outer surface”** in lines 8-9 and **“the location of”** in line 12. There is insufficient antecedent basis for these limitations in the claim.

Clarification and/or correction is required.

Claim Rejections - 35 USC § 103

7. Claims 21, 7, 9-11, 13-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baecker et al. (US 5,725,921) in view of Steele et al. (US 5,302,428).

Regarding claim 21, Baecker ('921) teaches a field liner (*col. 4, l. 44 and FIG-2, #26*) for protecting a timber pole against subsoil decay (*col. 4, l. 44 and col. 2, ll. 54-56*), which includes a sheet element that forms an elongate sleeve of which one end is at least partially sealed (*col. 2, ll. 47-48*), the sheet element being in the form of a laminate structure (*col. 3, l. 44*) including a first layer of material (*col. 2, ll. 46-53*), and a second layer of material (*col. 2, ll. 57-59*), with the first layer of material being a flexible (*col. 2, ll. 46-53*), liquid impermeable, non-biodegradable synthetic plastics film material (*col. 2, ll. 57-59*) that contains a dry film biocide therein (*col. 2, l. 61*) and defining the inner surface of the sleeve and the second layer of material being a flexible (*col. 2, ll. 46-53*), liquid impermeable (*col. 2, l. 58*), non-biodegradable (*col. 2, ll. 58-59*) synthetic plastics

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film material (*col. 2, ll. 57-59*) that is tear resistant (*col. 5, ll. 25-26*), and defining the outer surface of the sleeve (*col. 2, ll. 57-59*), however, fails to expressly disclose in which the second layer of material is provided with a strip of an adhesive substance externally thereon.

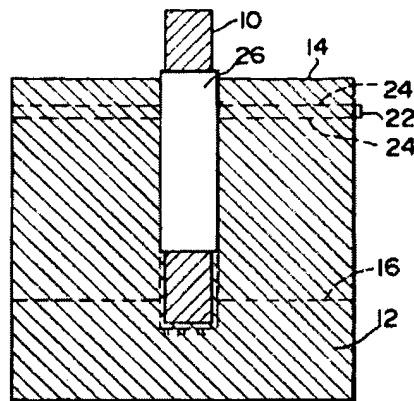


FIG. 2

However, Steele ('428) teaches in which the material is provided with a strip of an adhesive substance externally thereon (*FIGs 3-4, #26 and col. 3, ll. 25-35*) for the purpose of holding down the liner and providing adhesion between the layers (*col. 3, ll. 34-35 and col. 4, ll. 31-36*).



FIG. 3

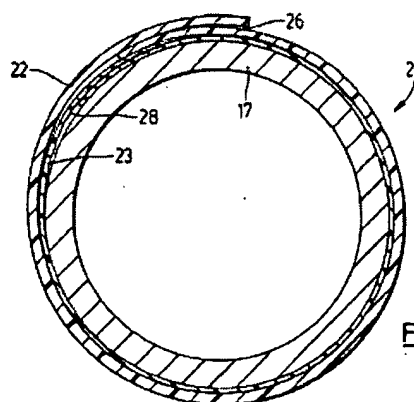


FIG. 4

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Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to modify Baecker ('921) with an adhesive substance as taught by Steele ('428) in order to provide a liner that is held down and adhered to the other layers.

The phrase **"which can adhere to an opposing region of the second layer of material when the sleeve is located on a timber pole and tightly wrapped around the timber pole"** in claim 21, lines 10-12 is **optional** language, thus non-limiting.

The phrase **"for securing the location of the sleeve on the pole"** in claim 21, line 12 is not given any patentable weight since the applicant is introducing **use** limitations into the product claims (see *MPEP* 2173 (q)).

Regarding claim 7, Baecker ('921) teaches a field liner in which the first layer of the sheet element is formed of polypropylene film (*col. 3, l. 15*).

Regarding claims 9-10 and 13-14, Baecker ('921) teaches a field liner in which the first/second layer of the sheet element contains an insecticide compound (pyrethroid insecticide, Deltamethrin) (*col. 3, l. 19-23*).

Regarding claim 11, Baecker ('921) teaches a field liner in which the second layer of the sheet element is formed of one of low density polyethylene and high density polyethylene (*col. 2, l. 63*).

Regarding claim 16, Baecker ('921) teaches a field liner in which the adhesive substance comprises an adhesive sealant.

Regarding claim 17, Baecker ('921) teaches the liner discussed above, however, fails to expressly disclose wherein the adhesive substance is covered by a peel-off strip.

However, Steele ('428) teaches wherein the adhesive substance is covered by a peel-off strip (*FIGs-3-4, #26, col. 3, ll. 25-35 and col. 4, ll. 47-50*) for the purpose of applying additional materials to the underlying layers (*col. 4, ll. 47-50*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to modify Baecker ('921) with an adhesive substance covered by a peel-off strip as taught by Steele ('428) in order to provide a liner that is capable of applying additional materials to the underlying layers.

The phrase "that can form a part of the field liner and that can be peeled-off prior to or during application of the field liner onto a pole" in claim 17, lines 3-5 is optional language, thus not limiting.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baecker et al. (US 5,725,921) in view of Steele et al. (US 5,302,428) and Holt et al. (US 5,070,597).

Baecker ('921) teaches a field liner which includes a first layer and a second layer of the sheet element (*col. 3, l. 44*), however fails to expressly disclose a third layer of a flexible aluminum film that is vapour impermeable.

However, Holt ('597) teaches a flexible aluminum film (*col. 7, ll. 53 and 56*) that is vapour impermeable (*col. 7, l. 62*) for the purpose of providing a material that is flexible and a barrier to moisture (*col. 7, ll. 56 and 62*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to modify Baecker ('921) with a flexible moisture water barrier aluminum as taught by Holt ('597) in order to provide a laminate that is flexible and a barrier to moisture.

ANSWERS TO APPLICANT'S ARGUMENTS

9. In response to Applicant's argument (*p. 8, para. 2 of Applicant's Paper filed 20 February 2007*) that Applicant's field liner is partially removable unlike Baecker ('921), it is noted that Applicant does not claim a field liner as being partially removable, furthermore Baecker's ('921) field liner is clearly removable as all liners are.

10. In response to Applicant's argument (*p. 9, para. 1 of Applicant's Paper filed 20 February 2007*) that it is not obvious to use an adhesive strip as taught by Steele ('428) and it makes no sense to use adhesive with a heat shrinkable sleeve, it is noted as discussed above that it is obvious to use an adhesive as taught by Steele ('428) since the adhesive holds down the liner and provides adhesion between the layers, whether or not the material is heat shrinkable (*col. 3, ll. 34-35 and col. 4, ll. 31-36*).

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

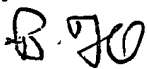
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brent T O'Hern
Examiner
Art Unit 1772
March 15, 2007


NASSER AHMAD
PRIMARY EXAMINER 3/22/07